Decision **DRAFT DECISION OF ALJ MALCOLM (Mailed 11/18/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration and Programs.	Rulemaking 01-08-028 (Filed August 23, 2001)

INTERIM OPINION ADOPTING FUNDING FOR 2004-05 ENERGY EFFICIENCY PROGRAMS AND STUDIES

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INTERIM OPINION ADOPTING FUNDING FOR 2003-04 ENERGY EFFICIENCY PROGRAMS AND STUDIES

I. Summary

This decision approves statewide and local energy efficiency programs for a two-year period beginning in 2004. In this decision, funding for energy efficiency programs is increased by $245 million or 89% above statutorily-authorized levels due to the integration of energy efficiency and procurement programs.

Specifically, this decision disburses $555.62 million to several companies, government agencies and organizations to undertake a variety of programs for residential, commercial and industrial customers. It also authorizes $17.62 million for measurement and verification studies for the utilities' 2004-05 programs and other projects. These programs will be funded by "public goods charge" (PGC) funds collected in 2004-05 and carried over from previous years.

This decision also authorizes the utilities to spend an additional $245 million on utility energy efficiency programs that are included as elements of their procurement portfolios. The utilities will implement these energy-savings programs in lieu of purchasing procuring electricity. In a related decision issued today in Rulemaking (R.) 01-10-024, we authorize the total amount of funds available for these procurement-related programs, manner in which the utilities may recover associated costs and the criteria we use to evaluate program proposals.

This decision supports the goals established in D.03-08-067 in which this Commission emphasized program continuity and stability of energy efficiency funding while the Commission considers establishing long-term statewide goals,

new measurement and evaluation mechanisms, and potential program structure. as called for in the Energy Action Plan.[1]

The programs we fund today build on past successes and seek to incorporate new ideas and technologies where possible as part of a larger effort to reduce the per capita use of electricity in California, reduce costs, and improve the electric system's reliability for California customers.

Therefore, we authorize continuation of most utility programs that we approved in 2003. We continue funding for existing marketing and outreach efforts that provide coordination with private sector energy efficiency programs and energy efficiency messages to consumers through mass-market advertising campaigns, capitalizing on the success of the state's Flex Your Power campaign.

Furthermore, this decision supports the emphasis on integrated resource planning called for in SB 1389, AB 58, and CPUC D.02-10-062 by facilitating integration of procurement-funded energy efficiency programs with other resource acquisition and demand reduction decisions. At the same time, this decision also supports the goals of promoting innovation in energy efficiency programs by providing maximum flexibility in administration of new energy efficiency resources available through utility procurement programs.

We authorize continuation of most utility programs that we approved in 2003. These programs improve upon previous programs in terms of energy savings and efficiency. We continue funding for existing marketing and outreach efforts that provide energy efficiency messages to consumers through

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[1] http://www.cpuc.ca.gov/static/industry/electric/energy+action+plan/index.htm

mass-market advertising campaigns, capitalizing on the success of the state's Flex Your Power campaign.

Furthermore, this decision supports the emphasis on integrated resource planning called for in (add legislation and CPUC decision) by facilitating integration of procurement-funded energy efficiency programs with other resource acquisition and demand reduction decisions. At the same time, this decision also supports the goals of promoting innovation in energy efficiency programs as outlined in (legislation and CPUC decision) by providing maximum flexibility in administration of new energy efficiency resources available through utility procurement programs.

The funding allocated to the 2004 programs, studies and projects is as follows:

Allocation of 2004-2005 PGC Funds

	PG&E	SCE	SDG&E	SCG	TOTAL
2004 and 2005 Electric PGC **[1]**	$215,180,000	$180,000,000	$64,800,000	-	459,980,000
2004 and 2005 Gas Public Purpose Program (PPP) Funds	$25,776,000	-	$11,000,000	$53,990,000	90,766,000
Unspent/Uncommitted Energy Efficiency Budget (1998-2002) **[2]**	$15,444,362	$1,516,272	$389,739	$2,183,000	19,533,373
Estimated Interest for Electric PGC Funds/Gas PPP Funds	$1,531,938	$1,176,000	$556,281	($297,072)	2,967,147
TOTAL PGC FUNDS AVAILABLE	**$257,932,300**	**$182,692,272**	**$76,746,020**	**$55,875,928**	**$573,246,520**
Investor-Owned Utilities Statewide Programs	$135,830,117	$106,180,494	$42,227,091	$32,550,108	$316,787,810
Utility Local Programs	$13,815,644	$11,801,439	$4,278,000	$4,755,206	$34,650,289
Utility Partnership Programs	$23,478,022	$15,035,162	$6,807,796	$4,975,202	$50,296,182
Total Utility Programs	**$173,123,783**	**$133,017,095**	**$53,312,887**	**$42,280,516**	**$401,734,281**
Non-utility Programs	$56,939,685	$28,630,671	$14,664,313	$7,279,726	$107,514,395
Reserved fee for Utility Contract Administration for Non-Utility programs (5%)	$2,846,984	$1,431,534	$733,216	$363,986	$5,375,720
Total Non-Utility Programs	**$59,786,669**	**$30,062,205**	**$15,397,529**	**$7643,712**	**$112,890,115**
Total Statewide Marketing and Outreach [3]	**$17,965,588**	**$13,419,506**	**$5,588,820**	**$4,026,086**	**$41,000,000**
EM&V for Statewide Programs	$4,046,345	$3,676,929	$1,265,088	$954,746	$9,943,107
Energy Division Special Projects	$449,950	$318,698	$133,880	$97,473	$1,000,000
Energy Division Operating Costs	$262,887	$196,383	$81,826	$58,904	$600,000
Other Studies	$2,297,079	$2,001,457	$965,991	$814,491	$6,079,018
Total EM&V and Other Projects	**$7,056,260**	**$6,193,467**	**$2,446,784**	**$1,925,614**	**$17,622,125**
GRAND TOTAL	**$257,932,300**	**$182,692,272**	**$76,746,020**	**$55,875,928**	**$573,246,520**

Notes:

[1] San Diego Gas and Electric Company (SDG&E): Pursuant to Advice Letter (AL) 1483-E effective April 1, approved by the Commission on April 15, 2003.

[2] Pacific Gas & Electric Company (PG&E): Net of Carry-over Funds from Program Year (PY) 1998 - PY 2002 and PG&E's two Motions to shift funds to PY 2003 programs and additional Energy Division staff costs, totaling to $3,975,838. Includes Gas Consumption Surcharge Funds remitted to the State Board of Equalization per Resolution G-3303.

[3] Additional funding of $8.0 million for Efficiency Partnership's Flex Your Power Marketing and Outreach Program will come from the utilities' procurement funds.

II. Background

D.03-08-067 solicited energy efficiency program proposals from utilities, government agencies, companies, and non-profit organizations and set forth several parameters for that solicitation. That order addressed programs that would be funded through the public goods charge or "PGC." Among other things, that order stated our intent to:

- Allocate approximately 70% of PGC funding to statewide utility programs, 10% to statewide marketing and outreach and evaluation, measurement and verification and 20% to programs proposed by entities other than utilities, and determine final allocations depending on program proposals.
- Award funding to entities and programs that are most likely to fulfill established energy savings and public policy goals, and program evaluation criteria;
- Permit utilities to submit proposals to continue to administer their current program offerings for two years as long as they were demonstrated to satisfy Commission criteria for evaluating energy efficiency programs;
- Modify program selection criteria for 2004-05 to include cost-effectiveness, long-term annual energy savings, equity, ability to overcome market barriers, ability to reduce peak demand, innovation, coordination with other programs, and demonstrated success in implementation of energy efficiency programs.

We retain the distinctions we have developed in recent years for various types of programs. "Statewide" energy efficiency programs are those that are offered uniformly by the utilities and are designed to promote customer participation on a broader basis. In addition, statewide marketing and outreach programs are designed to coordinate government-sponsored activities with private sector stakeholders including manufacturers and retail sellers of energy efficiency products and services, business and residential building managers, commercial and industrial program managers, and non-governmental organizations. D.03-08-067 expanded the types of organizations that may implement statewide proposals to include government agencies, non-profit organizations and non-utility firms. "Local" programs are those that are narrower in scope, tailored to specific geographic areas or hard to reach customer groups.

D.03-08-067 directed parties who wished to apply for energy efficiency program funding to submit proposals according to a standard format. It described our process for review and stated our intent to issue an order in this docket approving those programs most likely to fulfill explicit policy objectives.

III. 2004-05 Energy Efficiency Program Proposals for Funding with PGC Revenues

In response to the Commission's solicitation, utilities and other entities submitted a total of more than 400 separate proposals for more than 200 distinct programs. Most came from non-profit organizations, government agencies and businesses other than utilities. PG&E, SCE, SoCalGas, and SDG&E submitted the remainder, including 14 statewide programs, 11 local programs and 17 programs aimed at establishing partnerships with government agencies. These proposals sought PGC funding in amounts exceeding $1 billion plus an additional $245 million for procurement portfolio programs from PG&E, SCE and SDG&E.

As in previous years, each utility provided an estimate of PGC funds available for energy efficiency programs in 2004-05, that is, a forecast of future revenues plus funds left over from previous years including interest. These estimates are reflected in the table above.

A. Criteria and Process for Evaluating and Selecting Program Proposals

D.03-08-067 reviewed the criteria we use to evaluate program proposals. In that order, we adopted the following general criteria, in order of priority, for the 2004-05 programs:

1. Cost Effectiveness
2. Long-term Annual Energy Savings
3. Peak Demand Savings
4. Equity
5. Ability to Overcome Market Barriers
6. Innovation
7. Coordination with Programs Run by other Entities
8. Demonstrated Success Implementing Energy Efficiency Programs

In adopting these criteria, we commented that we would give additional weight to proposals that would reduce peak demand in geographic areas that are transmission-constrained or otherwise face reliability problems that have been identified by the California Independent System Operator (ISO). We joined with the CEC in stating a preference for programs that would address resource needs the Commission has identified, whether as part of the procurement review or other process.

We stated that we would evaluate information and statewide marketing and outreach programs using criteria most relevant to these programs and would therefore not require a specific showing of cost-effectiveness of energy savings or a demonstration that programs would reduce peak demand until the Commission could adopt appropriate measures and evaluation on the impact of marketing and outreach programs.

Consistent with D.03-08-067, Commission staff has reviewed energy efficiency proposals and proposed a portfolio of programs. Staff scored "hardware and incentive programs" according to the criteria set forth in D.03-08-067 as follows:

- Cost-Effectiveness (40 points: 30 points program net benefits, 10 points program benefit-cost ratio);
- Long-term Annual Energy Savings (20 points);
- Peak Demand Reductions (15 points);
- Equity (10 points);
- Ability to overcome market failures (5 points);
- Innovation (5 points);
- Coordination with Other Entities (5 points);

Staff scored "Information-only and Statewide Marketing and Outreach Programs" according to the criteria set forth in D.03-08-067 as follows:

- Ability to overcome market failures (25 points);
- Equity (25 points);
- Innovation (25 points);
- Coordination with other Program Implementers (25 points); and,

Staff scored all of these programs according to "Secondary Criteria" adopted in D.03-08-067:

- Quality and viability of program design (30 points);
- Distribution and reasonableness of budget (20 points);
- Program objectives and tasks clearly identified (20 points);
- Experience with successful delivery of similar programs (20 points);
- Alleviates transmission constraints in an area identified by the California ISO (10 points).

Staff evaluated each proposal and scored them, applying the primary and secondary criteria. Staff then ranked proposals in order of their primary criteria scores. Staff developed a short list of proposals by including those that had at least 60 points. After creating the short list, staff used judgment, guided by D.03-08-067, to include on the short list some programs that did not receive 60 points and to remove from the short list some that did.

Staff then re-ranked the proposals based on their combined primary and secondary criteria scores. The funding levels implied for this list at this stage exceeded the total budget for programs to be funded through the public goods charge, requiring staff to reduce some program budgets or eliminate some programs.

In order to develop a balanced portfolio and match funding levels with expected revenues, staff considered the extent to which proposals met the portfolio criteria adopted in D.03-08-067:

Maximized energy savings

Strong cost effectiveness

Equitable geographic distribution

Diversity of target markets

Equity by rate class

Equity between gas and electric program offerings and energy savings

Diversity of program offerings

Multiple languages offered to program participants

The result of this effort required considerable judgment at each step. Staff recommends the portfolio described in Attachment 1.

In general, staff rejected proposals if they:

a. Would duplicate other higher scoring proposals in terms of program design, target market sectors, energy efficient measures offered, and/or geographic coverage;

b. Had comparatively high cost of administration, marketing and direct implementation;

c. Had comparatively high measure costs and rebate levels;

d. Were less comprehensive than other programs proposed for similar market sectors;

e. Did not present realistic program characteristics or ways to achieve stated goals,

f. Were from implementers that demonstrated relatively less experience or success in program delivery compared to other similar proposals;

g. Were designed to serve a very small number of specific large industrial customers not considered hard-to-reach and that have relatively sophisticated resources;

h. Did not include adequate provisions for verifying measure installation if the program presents high risk for low-quality installations or fraud on the part of contractors or other program participants;

i. Were multi-utility service area programs that were accepted in other service area portfolios; and

j. Offer rebates for measures for which energy efficiency standards will be improved in 2004.

B. Programs Selected and Budgets

This decision adopts a variety of statewide and local programs on the basis of Commission staff analysis and recommendations, and consistent with our policy statements in D.03-08-067. Attachment 1 lists the utility and non-utility programs we fund in this order.

The portfolio we adopt seeks to provide both energy efficiency information and technology to all types of customers. Informational programs explain the benefits of energy efficiency to customers, and explain ways to obtain and use energy efficient techniques, products and services. Information programs selected will offer workshops, classroom visits, training classes, leaflets, websites, call centers and TV and print advertisements. We fund programs that ensure information is available to customers in many languages, including English, Spanish, and Chinese.

Hardware programs offer participants incentives that would reduce the cost of installing energy efficient measures and offer assistance in identifying energy savings opportunities through residential and non-residential facility audits. Programs may provide technical assistance to identify energy efficiency opportunities and quantify potential savings in electric and gas bills. Several programs this year offer comprehensive services to the participant from project identification through purchasing and installing equipment, processing rebates and providing quality assurance.

Generally, we adopt proposals that appear most likely to meet Commission goals and objectives at the least cost. We reject those that duplicate other programs from the standpoint of program design, target market sectors, energy efficiency measures offered or geographic coverage. We favor comprehensive programs providing a broad range of services or measures to customers over those that are not as comprehensive as other programs.

Because total energy efficiency spending must not exceed expected revenues for each utility territory, we reduced the budgets of some promising programs rather than cutting out those programs altogether. In a number of instances, we reduce utility and non-utility program budgets to make them comparable to the budgets or expenditures in previous years. For the utilities' statewide programs, these reductions in PGC funding may be more than offset by additional funding for the same programs in their procurement budgets, discussed in subsequent sections of this order. We also reduce proposed budgets for some of the new program proposals and utility partnerships, in cases where we believe reducing the scope or scale of the program would not compromise their viability.

We approve funding for a number of proposals that did not receive the highest scores but were funded for 2003 and have been successful. We deny funding for certain proposals that, despite relatively high scores, have weak program design, excessive overheads or would duplicate other energy efficiency efforts. Some of these programs would provide customer incentives where they are unlikely to be needed or project unsubstantiated savings objectives.

We also give preference to programs where utilities or non-utilities establish program partnerships with municipalities and local governments, consistent with D.03-08-076. On balance, when we had to choose between local government partnerships and other programs that were otherwise equally, we chose partnership programs.

We deny funding for some proposals to continue existing non-utility programs through 2005 in cases where staff identified problems with program implementation or program performance. In a few cases, we cut back proposals to offer services in more than one utility territory where the program would duplicate offerings in one or more territories.

C. Current Statewide Utility Programs

D.03-08-067 stated our stated intent "to maintain continuity and stability of currently successful programs." Accordingly, we give some preference to existing programs that have succeeded in meeting their savings targets. For the most part, we do not need to give preference to existing utility programs because they ranked high in the evaluation process.

SCE, SDG&E, SoCalGas, and PG&E utilities proposed to continue all of their current statewide programs. Almost all of these programs ranked high in meeting adopted evaluation criteria. Those that did not meet other important objectives, for example, Statewide Home Energy Efficiency Surveys, Nonresidential Energy Audit, and Education and Training Programs have been successful in providing valuable information to a broad client base. We thus fund the continuation of all existing statewide programs for which the utilities seek extended funding. We do, however, make some budget cuts from the proposed level of funding in order to assure funding for other programs in the PGC portfolio and where we believe those cuts will not compromise program delivery and viability. We reduce program budgets where the utilities propose relatively high overheads and marketing activities (such as television and radio advertising) where they duplicate marketing conducted through other programs. In some cases, we reduce proposed budgets to levels of spending reported in 2002-03. Other specific program changes are described in Attachment 4.

D. Utility and Local Government Partnerships

PG&E, SCE, SoCalGas, and SDG&E proposed a total of 17 programs in which they propose to work with local governments and schools. The proposals are summarized in Attachment 2. D.03-08-067 encouraged such partnerships and we consider our stated policy preference in evaluating them and deciding whether or not to fund them. On the basis of staff’s review, we agree to fund fourteen of the seventeen proposals with total funding of $50.3 million over two years as shown in Attachment 1.

Almost all of these programs ranked high in meeting adopted evaluation criteria. Others were selected, despite lower scores, because they are a continuation of existing partnership programs that have been successful or are new programs that offer comprehensive services to retrofit building facilities of the partner agencies. These include SCE's City of Pomona Partnership, SDG&E's Partnership with San Diego City Schools and UC/CSU, and SCG's Partnership with the Energy Coalition.

We decline to fund the following three partnership programs:

<u>PG&E's Local Government Partnership</u> – This proposal would set aside $3 million for PG&E to solicit future partnerships with government agencies. It appears to emphasize marketing and outreach for existing PG&E energy efficiency programs, with customized incentive/direct installation components targeting hard-to-reach customers in the area. This proposal did not provide enough information to evaluate its relative merits and lacked specificity with respect to program incentive structure and local government participants. Moreover, this decision provides flexibility to utilities in administering procurement-related funding for energy efficiency programs, partly for the purpose of encouraging innovation. This type of funding flexibility is more appropriate with a new funding source until such time as the Commission develops incentive-based program goals and accountability measures for procurement-based funding.

<u>PG&E's Third-Party Innovative Partnership</u> - PG&E proposes to use $2 million PGC dollars to solicit "innovative proposals that deliver peak and/or long term energy savings," focusing on local governments or communities. We reject this program because it does not provide enough information to evaluate

its relative merits. Again, the flexibility provided in procurement-based funding would be more appropriate for fostering innovative programs.

SDG&E's Partnership with San Diego County Office of Education – SDG&E proposed a program to coordinate with the SDCOE on curriculum development. We reject this proposal in favor of another higher ranking schools program that offers more comprehensive services in addition to curriculum development; and of a partnership program proposed by SDG&E and the San Diego City Schools, which offers retrofit opportunities to San Diego school facilities.

We do make some budget cuts from the proposed level of funding for certain partnership proposals in order to assure funding for other programs in the PGC portfolio and where we believe those cuts will not compromise program delivery and viability. Other specific program changes are described in Attachment 6.

E. PG&E Overhead Costs

PG&E's proposals include excessive overhead costs, particularly for regulatory reporting labor and corporate services labor. These overhead items are typically added on as a percentage of direct program costs or direct labor costs, and uses the same methodology across all programs for each company. Because overhead costs are unlikely to be identical for all programs and we believe there are economies of scale in PG&E's operation, we question the reasonableness of these budget items. Additional evidence that PG&E's overhead costs are excessive is that they are about twice as high as those budgeted by SDG&E and SCE. We are aware that the other three utilities recover some of their costs (e.g., pensions and benefits) from sources other than PGC and have considered that when making these budget reductions.

2004 – 2005 Proposed Overhead Budget Allocation by Utility

	Total Proposed Budget	Total Proposed Overhead	Overhead as % of Total Budget
PG&E	$ 227,921,5 10	$ 31,499,452	13.82%
SCE	$ 180,626,352	$ 12,626,205	6.99%
SDG&E	$ 60,028,999	$ 3,607,205	6.01%
SoCalGas	$ 63,332,043	$ 3,350,707	5.29%

Accordingly, we reduce PG&E's overhead allocations to 7% for all of its program budgets.

F. Utility Local Programs

PG&E and SoCalGas propose to continue through 2004-05 all of the local programs that they offered in 2003. SDG&E proposes to continue into 2004-05 two of its current six PGC-funded local programs and SCE would continue three out of its six current local programs.

We authorize funding for all except one local program proposed by the utilities at a total budget of $34.6 million for 2004-2005 from PGC funds. We decline to fund SoCalGas' Diverse Market Outreach Program, which would provide information to hard-to-reach residential and commercial customers. This program would duplicate the elements of other information and partnership programs, for which this order authorizes funding.

We reduce funding for some of the utilities' local programs, considering past expenditures and performance for these programs. We reduce funding for some of the programs to the level of expenditures in 2002 and in the first half of 2003. We further reduce funding for most of PG&E's programs for excessive overhead costs as discussed previously. Other specific program changes are described in Attachment 5.

G. Non-Utility Programs

We approve funding for programs to be implemented by 38 entities that include local governments, non-profit/community based organizations, and private firms. Funding for these programs will be $107.5 million or about 19% of the PGC funding approved in this order, not including funding for partnerships between utilities and government agencies. About $65 million of this amount funds successful programs that are being extended from the 2002-03 period. Attachment 1 lists the non-utility programs funded in each utility service territory.

We adopt funding for some non-utility programs that did not rank among the highest scoring programs because they demonstrated high levels of success with funding in the previous years. Among those programs are California State University's Fresno's Agricultural Pumping Program, California Urban Water Conservation Council's Pre-Rinse Spray Head Installation, and Quantum's Wastewater Process Optimization.

Overall, the non-utility programs for which we authorize funding today create a diverse portfolio of residential and nonresidential programs that complement statewide programs offered by the utilities. They focus on hard-to-reach sectors such as very small commercial customers, mobile home residents in rural communities, agricultural and industrial customers. Some offer information, education, and training programs to a variety of customer segments. Among them are a number of local programs funded in 2002-03 that have been successful and promote the diversity of the portfolio. Attachment 8 describes the non-utility programs we approve in this decision and specific program changes.

IV. Energy Efficiency Programs that Are Integral to Utility Procurement Portfolios

As part of a broader effort set forth in the Energy Action Plan to maximize resources by integrating resource planning and improve energy efficiency, the Commission has been developing guidelines for utility procurement portfolios in R.01-10-024, D.02-10-062. In that decision, the Commission articulated the importance of integrating energy efficiency programs as part of the utilities' long term energy supply strategies and ordered the utilities to include energy efficiency resources in their procurement plans. Subsequently, the assigned administrative law judge directed SCE, SDG&E and PG&E to propose up to $245 million worth of energy efficiency programs for evaluation and adoption in this proceeding. In a companion order issued today in R.01-10-024, we establish funding levels and the accounting for these programs, set forth the criteria for program evaluation, address financial incentives for them, and discuss other related procedural matters.

In this proceeding, the utilities proposed several types of programs to be funded at a two-year funding level of $244.6 million as follows:

PG&E	$75 million
SDG&E	$49.6 million
SCE	$120 million

Criteria for Evaluating Proposals. The Commission has adopted existing criteria for evaluating the merits of energy efficiency programs that are currently funded by the PGC, which are described above. We have not considered, in this proceeding, the development of new criteria for additional resources available for energy efficiency through procurement funding.

In a companion order today issued in R.01-10-024, we find that, until such time as the Commission adopts new measurement and evaluation criteria for all energy efficiency programs as part of the goals set forth in the Energy Action Plan, the utilities procurement-funded programs should be subject to the same criteria as those the Commission has adopted for PGC-funded programs. We apply those standards to the programs for which we adopt funding in this order.

Adopted Procurement Programs. The utilities' proposals for procurement-funded energy efficiency programs anticipate additional spending on existing statewide programs. However, their submittals do not demonstrate that additional spending in the statewide programs would be possible or cost-effective in all cases, primarily because they do not provide analysis of demand. We recognize that time constraints may have made such market analysis difficult or impossible. In order to provide some measure of accountability toward maximizing cost-effective energy savings with procurement resources, the utilities will be expected to meet, at a minimum, the overall energy-savings goals outlined in their procurement program proposals. Future program funding and administration decisions will be based upon the utilities' success in meeting or exceeding these goals in the most cost-effective manner. The utilities may shift 100% of their procurement-funded programs across their authorized programs, keeping in mind that the purpose of this flexibility is to meet or exceed their proposed target savings. This discretion will permit the utilities to use their knowledge of evolving market conditions and technologies to maximize energy savings. As part of the long-term energy efficiency goals and program structure, we will consider establishing an incentive-based system and the most effective evaluation criteria for all utility energy efficiency programs, including procurement-funded programs.

Utility	Total kWh Savings Target	Total Peak kWh Savings Target	Total Therm Savings Target
SDG&E	251,968,377	43,943	1,339,551
SCE	956,994,404	168,206	N / A
PG&E	466,883,057	124,400	250,893

Finally, we recognize that, over a two-year period, market conditions may change, and this Commission has placed an emphasis on innovation and partnerships between utilities, local government and other entities. For this reason, we will allow the utilities to file, through an advice letter, for authority to initiate a new energy efficiency program to be funded out of procurement funds authorized in R.01-10-024. In doing so, we recognize that during that time circumstances may change and new ideas may arise, therefore, a process for authorizing new programs is reasonable through the advice letter process.

V. Statewide Marketing and Outreach Programs

A. Selected Programs and Funding Levels

Marketing and outreach programs not only provide the critical link between program funding and customer participation, but also serve as a key link between government, the utilities, and the massive potential for energy efficiency in the private sector. D.01-11-066 emphasized that marketing information should propose to consumers ways to reduce consumption permanently using messages that are consistent statewide. D.03-08-067 stated our intent to continue funding marketing and outreach programs. McGuire and Company filed a joint proposal with PG&E, SCE, SDG&E & SCE (Efficiency Partnership). Univision Television Group and Staples/Hutchison Associates (Univision), and Runyon Saltzman & Einhorn (RS&E) also submitted marketing and outreach proposals. Efficiency Partnership, Univision and RS&E request two-year program budgets of $30 million, $6 million and $6.3 million, respectively. All of these programs represent continuations of existing efforts. No other organizations proposed statewide marketing programs.

We continue the past levels for funding for statewide marketing and outreach programs for 2004-05, as follows:

- Efficiency Partnership – $30 million over two years for marketing and education programs that capitalize on the "Flex Your Power" campaign through TV, newspaper, radio and targeting English and Asian-speaking communities (Global Energy Services, a recipient of local outreach and marketing funds for 2002-2003 and now 2004-05, will continue its efforts to provide outreach to the Chinese-speaking community);

- RS&E– $5 million over two years for statewide programs directed to English and Spanish-speaking customers in rural communities primarily through radio and printed materials, including grants to community-based organizations with strong community ties;

- Univision-- $6 million over two years for marketing and information to Spanish-speaking communities, using televised messages, building on its success from the previous years.

RS&E should reallocate its approved budget to most effectively accomplish the broad marketing goals and objectives identified in its proposals. Efficiency Partnership, Univision and RS&E should submit revised program implementation plans for Energy Division approval, consistent with the modifications directed in Attachment 7.

Efficiency Partnership, RS&E and Univision should continue to coordinate their efforts with each other, with the utilities, and the other non-utility energy efficiency program implementers for consistent, coherent and timely marketing and outreach.

Efficiency Partnership should make more prominent information about non-utility programs so that access to them is comparable to information about utility design. Efficiency Partnership should coordinate with non-utility implementers for ways to represent their programs effectively at the website. In addition, Efficiency Partnership should clearly describe the specific roles and activities of PG&E, SCE, SDG&E and SoCalGas in the program implementation plan and identify the associated budgets for each respective utility's activities.

B. Administration of Marketing and Outreach Programs

Until such time as the Commission establishes a new regime for measurement and evaluation of all energy efficiency programs, each recipient of M&O program funding should engage a third party to evaluate marketing and outreach program performance.

Plans for this evaluation should be included in the implementation plans to be submitted no later than 60 days from the date of the decision approving the marketing and outreach proposals. Each funding recipient should also post its plans on its websites in a prominent location. In addition to the requirements in the previous section, each plan should contain the following information:

- Title of Individual Program
- Plans to implement the decision's changes to the original proposal

- Objective measures for evaluating program success

- Hard-to-reach target and goals. The funding recipient identify them in its plan, consistent with the Commission's order.

- Budget information in a format provided by Commission staff, which describes specifically how the funding recipient will use apply funds to various activities.

- Description of coordination plan with other providers of marketing and outreach for consistent, coherent and timely campaigns.

The Commission will monitor and evaluate the statewide marketing and outreach programs using the plan as a benchmark. The parties should not delay the program preparations or commencement while in the preparation stage or after submission of the program implementation plans.

SCE shall continue to administer the 2004-2005 marketing and outreach programs approved in this decision. SCE should contract with RS&E, Efficiency Partnership and Univision to ensure that funding is used only on energy efficiency messages authorized in this decision. Program payment will depend on the implementers' compliance with contractual requirements. The other utilities shall transfer allocated PGC funds for statewide marketing and outreach to SCE so that it may compensate Efficiency Partnership, RS&E, and Univision. In all cases, the Commission will retain total ownership interest in all content developed with the funding it awards here.

VI. Energy Efficiency Program Administration

A. Measurement and Verification of Programs and Other Projects

The Commission is currently conducting a comprehensive review of EM&V efforts in the broader context of policy development in this proceeding. Pending the outcome of that review, we will use the same procedures we have used in the recent past to conduct EM&V.

D.03-08-067 anticipated spending about $22 million over the course of two years for EM&V activities for the 2004-05 utility programs and related studies. It stated an intent to have the utilities continue managing most EM&V efforts.[2] This decision allocates $17 million for these activities.

1. Utilities Statewide EM&V and Overarching Studies

The utilities submitted to the Energy Division on September 23, 2003, their joint plans for utilizing the $22 million allocated in D.03-08-067 for EM&V and other studies. The utilities proposed to allocate $11.9 million out of the $22 million for the EM&V of their statewide programs and $10.1 million for overarching projects, including funds for CPUC consultant services and Energy Division operating costs. We reduce the total amount authorized for statewide program EM&V and other projects to $17 million for two years in order to accommodate funding for other programs in the portfolio. The utilities should reallocate the approved budget for statewide program EM&V and submit revised plans as discussed below.

[2] For 2003, the Commission is managing work on shareholder earnings awards, financial auditing and certain research projects

The utilities' EM&V studies for statewide programs should evaluate program effectiveness as well as verify savings claims/measure installations, marketing and outreach activities, and hard to reach targets included in their 2004-05 program reports. The studies should also measure energy savings and demand reductions that result from these programs unless a clear demonstration or justification for not doing so is provided. The utilities should make demonstrable efforts to expand and vary the entities with which they contract to perform these duties.

For utility statewide EM&V and other overarching studies, the assigned ALJ will work with Energy Division staff to oversee the plans and contractors for these studies. The utilities EM&V plans filed with their statewide program proposals are not complete. We will direct the utilities to submit to Energy Division staff more detailed plans for EM&V studies for both statewide programs and overarching studies. The ALJ will have the authority to approve final plans and selected contractors or direct changes to them.

2. EM&V for Non-Utility, Partnership, and Local Utility Programs

The respective program budgets we approve in this decision for the utilities' local and partnership programs, and for the non-utility programs include amounts reserved for EM&V contractors. EM&V for entities other than the utilities and for local utility programs and utility partnership programs will be coordinated through Energy Division staff and its contractor. Energy Division staff will oversee and approve each program's EM&V cost amount. The administering utility shall ensure that program implementers reserve that amount for EM&V invoices. The ALJ, in consultation with Energy Division staff and their contractor, will have authority to approve or reject program implementers' proposed EM&V plans and contractors to assure the plans' veracity and the contractors' independence and skill. Once the EM&V budget for a program has been approved, program implementers should set aside funds for that expense to ensure EM&V sub-contractors are paid in a timely manner and that their payment is not contingent on program performance.

B. Utility Contracts with Third Parties and Costs for Administration of Non-Utility Contracts

Each non-utility program implementer has been assigned to a single utility that will administer their contract(s). The assigned utility is identified in Attachment 1, along with the list of approved programs. The Energy Division has revised the Standard Contract template that was used for the non-utility programs funded for 2002-2003 with input from various parties. This revised contract template has been posted on the CPUC website at:

http://www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/resource6.pdf

We instruct the utilities to adopt this contract template and ensure that contracts are signed within 10 calendar days of having received written notice, via e-mail, from assigned Energy Division staff that the non-utilities' program implementation plans have been approved. (See Section H below.) For those programs not requiring revised plans, contracts shall be signed within 10 calendar days of the approval of this Order.

As in past years, we authorize utilities to charge to the PGC fund up to 5% of the total amount awarded to non-utility programs for utility costs associated with contract administration. These charges are to be made only for actual costs (i.e., no allocated overhead is to be added). Non-utility contract administration costs are to be tracked separately, by program implementer, and are to be reported as part of the monthly PGC accounting report that is currently submitted to Energy Division. Energy Division will work with the utilities to revise the format of that report to accommodate this addition.

C. Program Reports

Consistent with past practice, all program implementers must submit monthly and final reports documenting their work progress and expenditures. We considered allowing non-utility program implementers to submit quarterly reports, however it appeared that this change might interrupt or delay funding to those entities, since quarterly payments are now made based upon receipt of expenditure information in advance (on a monthly basis). At this time, we invite parties to discuss whether it is feasible to moving toward quarterly reporting without interrupting the payment schedule, and how such reporting would be more efficient. The format and submittal requirements for the reports will be available at the Commission's energy efficiency website. The standard contracts will incorporate our decision on the timing of reports and may include additional reporting requirements.

D. Utility Provision of Information Regarding Non-Utility Programs

We have required the utility administering a non-utility program by way of a Standard Contract to provide information provided by non-utility program implementers to all program implementers with whom it holds contracts. This information has apparently not been available to statewide marketing implementers or has not been used by them in a way that promotes customer participation. (In contrast, adequate information about utility programs appears to be widely available and accessible on the statewide marketing websites.)

To assure that all Californians have access to information about non-utility programs, we herein direct the utilities to provide non-utility program summaries (as provided by the program implementers to their utility contract administrator) to the statewide marketing contractor and ensure that the summaries are prominently posted on the statewide marketing website. We will direct those implementers with marketing programs to educate their customer representatives about non-utility programs so that they can provide related information to the public. We will also direct the utilities to provide a prominent link from the energy efficiency sections of their websites to the location on the statewide marketing website that hosts information on non-utility programs.

We will direct the utilities to train their customer service representatives about the non-utility programs offered in their respective service territories, and provide information and contacts for those programs to customers who inquire about energy efficiency programs.

E. Performance Award for Non-Utility Program Implementers

Non-utility program implementers will continue to be eligible for a performance award for up to 7% of a program's approved budget. Awards are at the discretion of the Commission and its designees. The amount of the award will depend on program success as measured by adopted program goals. We note that the total budgets approved for each non-utility program, as shown in Attachments 1, 7 and 8, include the 7% performance award. This amount should be set aside and only awarded pending review of program performance as provided for in the contract.

F. Program Implementation Plans and Revision of Program Plans and Budgets

As in past years, parties awarded program funding will need to present detailed program implementation plans (PIP) to Commission staff for their final approval in cases where we approve a program with modifications or at funding levels that are below those originally requested. We are requiring a shorter turnaround time for initial submissions by non-utilities for two reasons: (1) to ensure that contracts can be signed in time for programs to commence as close to the beginning of 2004 as possible, and (2) to provide the utilities with the ability to first finalize non-utility program contracts and then concentrate on finalizing their own program plans.

Parties receiving funding who must submit PIP should do so as follows:

- Utility programs –Revised PIP must include required modifications or revised measure goals to reflect reduced budgets. Revisions must use proposal narrative and workbook. Revised PIP must not include any program changes not expressly set forth in this decision; and should be submitted within 30 days of the effective date of this decision.

- Non-utility programs – Revised PIP shall be submitted first to the utility and then to Commission staff; revisions must be in the proposal narrative and workbook and shall not include, any changes not expressly set forth in this decision. Non-utilities must submit revised proposal to utilities within 10 days of Decision being adopted, utilities have 10 days to review and for implementer to provide this document to staff.

G. Shifting Funds Between Utility Programs Funded with PGC Revenues

As in previous years, utilities may shift PGC program funds across statewide program categories as prescribed herein. For certain program categories, the utilities may shift up to 25% of one program's funds into another program in the same category. Specifically, the utilities may shift funds approved for Statewide programs without our prior approval between the following program categories:

1. Statewide Residential Retrofit
2. Statewide Residential New Construction
3. Statewide Nonresidential Retrofit
4. Statewide Nonresidential New Construction
5. Statewide Cross-Cutting (except Codes and Standards Advocacy)

The utilities shall prominently disclose any such program fund shifting in their quarterly reports. If a utility can demonstrate that it must shift more than 25% of funds between programs in order to pursue cost-effective programs, it may seek additional authority by way of motion to the assigned ALJ. The assigned ALJ will have authority to approve shifts of funds in excess of 25% where necessary to promote program success or avoid program failure. As we discussed previously, the utilities may shift up to 100% of funds between programs that are authorized as elements of energy procurement portfolios.

H. Differences Between Utility Program Budgets and Expenditures

The Commission intends to hold the utilities to the same requirements as non-utilities (consistent with the Standard Contract) regarding increasing expenditures across budget categories at levels that differ from those in the approved budget. Although funds may be shifted across Statewide program categories, as set out in the previous section, the overall amount spent by the utilities on costs and activities other than direct implementation (e.g., administrative/overhead and marketing) will not exceed the amounts approved by this order.

For a given program, a utility's expenditures for administration, marketing and outreach and EM&V may not exceed the total amount for each of those categories, as approved by the Commission in the approved budget worksheet, without approval of the assigned ALJ. The following are the only exceptions to this requirement: The utility may (1) increase direct implementation expenditures for work within the scope of the approved plan; and (2) shift up to 5% of the approved budget for administration/overhead and marketing to increase expenditures on either of those two categories. Any other exceptions to this requirement will need to be requested through a motion to the assigned ALJ that explains the reason for the request, provides a proposed revised budget worksheet, and documents how the change in expenditures will affect program results and goals.

I. Commission Cost Reimbursement

Consistent with the State Budget Act, the utilities shall reimburse the Commission $600,000 for two years for its energy efficiency operating allocated as shown in the relevant table above.

VII. Comments on Draft Decision

The Commission mailed the draft decision of the ALJ to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Parties filed opening comments on _______and reply comments on __________.

VIII. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Kim Malcolm is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The purpose of this proceeding is to allocate funds for the continuation of energy efficiency programs and evaluation of them for two years during 2004-05.

2. The programs described in Attachments 3 to 8 would promote energy savings in ways that are consistent with our explicit policies and evaluation criteria for programs funded by public goods charge revenues and those that support the utilities' energy procurement portfolios.

3. Limiting the ability of utilities to shift funds between programs is consistent with the Commission's duty to oversee program funding and promote cost-effective and fair programs.

4. Assigning one utility to administer certain program elements promotes consistency and efficiency in program management. Edison has assumed this role for the statewide marketing and outreach programs discussed in this decision.

Conclusions of Law

1. Energy efficiency programs should be modified to the extent those modifications would promote more cost-effective programs, increased participation, fairness or other criteria or policy adopted by the Commission.

2. The Commission should adopt the program funding and modifications set forth in Attachments 1 and 3 to 8.

3. The Commission should allocate funding to those marketing and outreach proposals that are most likely to be successful, which are in this case those that received funding for 2003.

4. Public Utilities Code Sections 381 and 390 directs the Commission to supervise the spending of public goods charge and thereby authorizes the Commission to contract with experts to evaluate program implementation and verify spending.

5. R.01-10-024 authorizes funding for energy efficiency programs by the utilities as elements of their energy procurement portfolios. A companion decision issued today in that docket develops the funding mechanism, the evaluation criteria and authority to spend funds on programs adopted in this order as part of each utility's procurement portfolio.

6. The utilities should evaluate energy efficiency programs and spending in 2004-2005 as set forth herein.

7. The utilities should account for energy efficiency funds and provide related data to the Commission as set forth herein.

8. The utilities' authority to shift funds between programs should be limited as set forth herein.

9. Edison should continue to administer certain program elements for all utilities, as set forth herein.

INTERIM ORDER

IT IS ORDERED that:

1. We approve the energy efficiency programs for 2004 and 2005 as set forth in Attachment 1 to this decision. Those programs apply to Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas). Those investor-owned utilities (utilities) and non-parties chosen to receive funding shall be eligible for no more than the amounts

awarded. Program payments shall be contingent on reasonable program performance.

2. All statewide marketing and outreach programs receiving funding shall file and serve, within 60 days from the date the Commission approves this decision, Program Implementation Plans (Plans) for each funded program. Each party shall also post their Plans on their websites in a prominent and easy-to-find location. The Plans shall contain the information set forth in this decision.

3. No party shall delay program commencement or preparation pending submission of or Commission action on these plans.

4. Where non-parties receive funding, the utilities shall administer the party contracts as set forth in Attachment 1. Edison shall continue to administer the contract for the three statewide marketing and outreach programs. Funded parties shall file and serve required Program Implementation Plans and shall not be eligible to receive funding prior to such submission.

5. Companies awarded funding for marketing and outreach efforts shall consult with utility energy efficiency program managers and each other to coordinate the timing of statewide and utility messages and programs.

6. The utilities shall work together to market their statewide programs. To the extent the utilities offer the same programs, they shall advertise them together. Program Implementation Plans and quarterly reports shall describe utility efforts to coordinate programs. Utilities shall focus all PGC-funded marketing for programs in this decision on energy efficiency messages.

7. Non-utility program implementers will be eligible for a performance award for up to 7% of a program's approved budget. Awards shall be at the discretion of the Commission and its designees. The amount of the award shall depend on program success as measured by adopted program goals. The total

budgets approved for each non-utility program, as shown in Attachments 1, 7 and 8, include the 7% performance award. This amount shall be set aside and only awarded pending review of program performance as provided for in the contract. Program providers, including non-utilities, shall prominently post all reports on their respective websites.

8. Utilities shall not shift program funds across program categories except as set forth herein. Within the following categories, for PGC-funded energy efficiency programs the utilities may shift up to 25% of one program's funds into another program in the same category. The utilities may shift 100% of funds between programs that are authorized as elements of energy procurement portfolios.

Categories:

a. Statewide Residential Retrofit

b. Statewide Residential New Construction

c. Statewide Nonresidential Retrofit

d. Statewide Nonresidential New Construction

e. Statewide Cross-Cutting (except Codes and Standards Advocacy)

9. The utilities shall prominently disclose any such program fund shifting in their monthly reports. Utilities shall file a motion to modify the 25% limitation if necessary for program success or to avoid program failure. We herein delegate authority to the assigned ALJ to resolve such motions.

10. The utilities shall pay for costs associated with the Commission's contracts for projects described herein and shall cooperate with Commission staff and consultants on all such audits and studies, as described herein.

11. Utilities shall jointly develop, file, and serve, within 60 days of the effective date of this order, in consultation with the Energy Division and through available informal mechanisms, a plan for the conduct of evaluation activities related to their statewide and local programs, including ongoing and new studies. The utilities should make demonstrable efforts to expand and vary the entities with which they contract to perform these duties. We delegate authority to the assigned ALJ, in consultation with the Energy Division and the Assigned Commissioner, to review and approve the evaluation plan.

12. A utility shall not increase the dollar amounts of individual customer incentives above those approved in this decision and as filed in their approved Program Implementation Plans without first notifying all parties to this proceeding electronically and receiving approval from designated Commission staff, consistent with this order. A utility may lower customer incentives by notifying designated Commission staff and the service list of this proceeding. Increases to customer incentive amounts must be approved in advance by designated Commission staff following 20-day notice to staff and the service list of this proceeding.

13. Where program changes are required by this order, the utilities shall submit revised sections of their previously filed program implementation plans incorporating those changes. Those revisions shall be submitted to Energy Division staff within 45 days of this order.

This order is effective today.

Dated ______________________, at San Francisco, California.